

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 10789 OF 2023
IN X-OBJ/107/2022

Shaikh Majed Shaikh Rasool

VERSUS

Muktabai Sakharam Gore And Ors

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Advocate for Applicant : Mr. Jadhav Kailas Balasaheb

Advocate for Respondent No.1 : Mr. S.P Kakade

Advocate for Respondent No.3 : Mr. Bhimrao R. Rathod h/f Mr. S.B.
Bhapkar

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CORAM : S.G. MEHARE, J.

DATED : APRIL 19, 2024

PER COURT:-

1. Heard the respective counsels.
2. The history of litigation shows that one Shaikh Majeed was the owner of entire land which was subsequently acquired. Out of it, he transferred 80 R of land to cross objectioner Muktabai by a registered sale deed. Therefore, they had a compromise and the said land was restored to Shaikh Majeed. Thereafter, the said 80 R of land which was transferred to cross objectioner Muktabai was again transferred to Tamijbai. The said portion of 80 R land was acquired and the valuation was determined. However, in the revenue record, the name of Muktabai remained as it is. Therefore, Tamijbi raised an objection for disbursement of the compassion amount. Some other persons have also raised objection against Tamijbi and Shaikh Harun.

Therefore, the Land Acquisition Officer referred the issue to the Civil Court. The Civil Court determined the apportionment and held that cross objector Muktabai is entitled to the compensation and the land of 80 R. Against that judgment, Tamijbi had preferred the first appeal. She had secured the stay to the disbursement of the compensation for 80R of land to cross objector Muktabai. However, when the cross objection was filed, the cross objector Muktabai obtained the stay from the Court on 24.08.2022 as per prayer clause (B). Prayer clause (B) of that Civil Application No.12197 of 2022 reads thus :

“B. Pending hearing and final disposal of this cross objection and first appeal no.1346/2022, not to disburse the amount of Rs.55,10,570/- to Shaikh Harun Shaikh Majed which is deposited by SDO and land acquisition officer paithan-phulambri in LAR No.82/2016.”

3. Shaikh Harun who was the owner of 97 R of land had applied challenging this application for vacating stay against him only. He did not claim any share in the compensation of 80 R land which has been granted by the Civil Court to cross objector Muktabai.

4. Muktabai has no any interest in 97 R of land that has gone to the share i.e. owned by Shaikh Harun. However, the learned counsel for Muktabai submits that Tamijbi is claiming the entire compensation for the entire land of 1H 60R. Therefore, there may be complications. Learned counsel for Tamijbi and learned counsel for

Shaikh Harun says that they have no dispute about 97 R of land owned by Shaikh Harun. Learned counsel for Tamijbi contends that he is only contesting against Muktabai.

5. In view of the statements made by the respective counsels, it is clear that there are two separate awards for 97 R and 80 R land. The cross objectionist Muktabai is claiming the compensation granted to 80 R of land, which this Court has protected by the interim order.

6. In view of the matter, this Court is of the view that the application needs to be allowed and order dated 24.08.2022 needs to be recalled against Shaikh Harun Shaikh Majeed. Since there is no dispute for 97 R of land owned by Shaikh Harun and Muktabai has no interest in it, title in the said compensation, Shaikh Harun is entitled to receive the compensation for 97 R of land only subject to the objection of any third party other than Muktabai. The application is allowed.

(S.G. MEHARE, J.)